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EXAMINER

OYEBISI, OJO O

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/919,385	Applicant(s) WOESTEMEYER ET AL.	
	Examiner OJO O. OYEBISI	Art Unit 3696	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-7, 22, 23, 25-35, 37, 39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 22-23, 25-35, 37 and 39-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to the restriction requirement mailed on 08/29/09, the applicant has elected the invention of Group I, claims 1-3, 5-7, 22-23, 25-35, 37 and 39-40 without traverse. The election of the invention of Group I is hereby acknowledged.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3, 5-7, 22-23, 25-35, 37 and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter et al (Walter hereinafter, US PAT: 6334110) in view of Anderson et al (Hereinafter Anderson, US PAT 5,974,396).

Re claim 1. Walter discloses a market analysis system comprising: a computer processor; a computer readable storage medium: a database stored on the computer

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readable storage medium comprising aggregate transaction data (see col.2 lines 17-24); and a software program stored on the computer readable storage medium executable by the processor to: receive a set of transaction data from an electronic exchange where market transactions are conducted electronically via the Internet (i.e., the central office has data feeds to receive data from the electronic exchange (i.e., the web), see col.4 lines 8-11); store the set of transaction data in the database (see col.2 lines 17-24); categorize products and services from the aggregate transaction data into a plurality of standard pricing groups (see col.6 lines 15-40) according to configuration information received at the market analysis system from one or more suppliers that participate in the electronic exchange (i.e., matching/clustering, also see "profile-based segmentation", see col.6 lines 23-45), wherein the configuration information includes standard pricing group attributes, wherein the standard pricing group attributes include a value corresponding to a delivery term, a locale, a product, a service, a customer type, a time scale, or a sales channel (see col.5 lines 1-40, especially col.5 lines 1-25); determine at least one statistical analysis to be applied to one of the plurality of standard pricing group (see col.4 lines 41-42), communicate the set of results from the at least one statistical analysis to a supplier that participates in the electronic exchange (see the abstract). Walter does not explicitly disclose define starting values and default parameters of the at least one statistical analysis to be applied to the standard pricing group; and apply the at least one statistical analysis to the standard pricing group to derive a set of results, wherein the set of results include a time-windowed relationship within the standard pricing group . However Anderson discloses define starting values

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and default parameters of the at least one statistical analysis to be applied to the standard pricing group; and apply the at least one statistical analysis to the standard pricing group to derive a set of results, wherein the set of results include a time-windowed relationship within the standard pricing group (i.e., marketing analysis tools such as conventional statistical analysis software packages, e.g. SPSS, Cognos Impromptu.TM., Cognos Power Play.TM., etc., and print and direct mailing subsystem are used to create value-added information targeted to particular consumers and a medium (e.g. advertisements, newsletters, coupons, etc.) for communicating that information with a consumer..... See col.6 lines 10-45. Note that statistical analysis tools can be used to set define starting values and default parameters for any given data). Thus it would have been obvious to one of ordinary skills to combine the teachings of Walter and Anderson to determine statistical patterns, e.g. buying habits based on specific consumer demographics, for formulating retail marketing strategies.

Re Claim 2: Walter does not explicitly disclose the market analysis system of Claim 1, wherein the at least one statistical analysis comprises at least one of a demand function analysis, a time series analysis, a correlation analysis, a request for quota analysis and an auction analysis. Anderson makes this disclosure (Column 10, lines 31-53). Thus it would have been obvious to one of ordinary skills to combine the teachings of Walter and Anderson to determine statistical patterns, e.g. buying habits based on specific consumer demographics, for formulating retail marketing strategies.

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Re claim 3. Walker further discloses the market analysis system of Claim 1, wherein the software program is further executable to store the set of results from the at least one statistical analysis in an aggregate market database (see Table 1 col.5)

Re claim 5. Walter further discloses the market analysis system of Claim 4, wherein the software program is further executable to communicate the set of results from the at least one statistical analysis in a format compatible with a revenue management software program running on a computer of a supplier that participates in the electronic exchange (see the abstract and the summary of the invention)

Re claim 7. Walter further discloses the market analysis system of Claim 1, wherein the software program is further executable to return a summary of the set of transaction data (see fig.4)

Re Claim 22: Claim 22 recites similar limitations to claim 1 supra and is thus rejected using the same and rationale as in claim 1 above.

Re claim 23. Walter further discloses the method of Claim 22, wherein the standard pricing group comprises an aggregation of data from the set of transaction data stored in the database (see fig.2 elements 224 and 210).

Re claim 25. Walter further discloses the method, further comprising formatting the set of results of the at least one statistical analysis to be compatible with a revenue management software program running on a computer of a supplier that participates in the electronic exchange (see the abstract and the summary of the invention).

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Re claim 26. Walter further discloses the method of Claim 22, further comprising communicating a summary of the set of transaction data from the at least one statistical analysis to a supplier that participates in the electronic exchange (see the abstract)

Re claim 27. Walter further discloses the method of Claim 22, further comprising applying the analysis to the standard pricing group according to a predefined schedule (see col.4 lines 41-42).

Re claim 28. Claim 28 contains essentially the same limitations as previously rejected system claim 2 respectively and are therefore rejected using the same art and rationale as in claim 2 above.

Re claim 29. Walter further discloses the method of Claim 22, further comprising storing the set of results in from the at least one at least one statistical analysis in an aggregate market database (see fig.4).

Re claim 30. Walter further discloses the method of Claim 22, wherein the set of transaction data includes aggregate transaction data (see fig.4).

Re Claim 31: System claim 31 contains essentially the same limitations as previously rejected system claim 1 respectively and are therefore rejected using the same art and rationale as claim 1 above.

Re claim 32. Claim 32 contains essentially the same limitations as previously rejected system claim 2 respectively and are therefore rejected using the same art and rationale as in claim 2 above.

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Re claim 33. Claim 33 contains essentially the same limitations as previously rejected system claim 5 respectively and are therefore rejected using the same art and rationale as in claim 5 above.

Re claim 34. Walter discloses the system of Claim 31, wherein the software program is further executable to apply the at least one statistical analysis according to a predefined schedule (see col.4 lines 41-42).

Re claim 35. Walter further discloses the system of Claim 31, wherein the software program is further executable to communicate a summary of the set of transaction data to a supplier that participates in the electronic exchange (see the abstract).

Re claims 37, 39-40. Claims 37 and 39-40 recite similar limitations to claim 2 and thus rejected using the same art and rationale as in claim 2 supra .

Response to Arguments

Applicant's arguments filed on 06/03/09 have been fully considered but they are not persuasive. The applicant argues in substance that Walter fails to disclose categorize products and services from the aggregate transaction data into a plurality of standard pricing groups according to configuration information received at the market analysis system from one or more suppliers that participate in the electronic exchange. Contrary to the applicant's assertion, Walter discloses matching/clustering and also "profile-based segmentation" i.e., " the profiles gathered at step 322 can be weighed and matched to find other customers who have similar temporal browsing and buying behaviors. Based on the merchandise, it is possible to form some conclusions about Willard from the items Willard buys. For example, from the information in Table 1,

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Willard is interested in infant toys (perhaps he is a new father) as well as sporting equipment for himself and possibly his father. The present invention would conclude, based on the mix of merchandise and time, that Willard fits into several profiles or clusters. Second, the invention performs a matching/clustering algorithm on Willard's profile to determine if there are other people similar to Willard in their mix of product browsing and buying behaviors. These sets of people with like behaviors are called temporal segments. In this example, suppose the analyst notes a cluster of skiers who browse infantware. The analyst would then create a new virtual community segment called "sports-oriented new fathers". Other segments are also possible. (20) An example of profile-based segmentation is shown in FIG. 6. Willard's name and customer identification are entered and displayed at 610 and 620. The system responds by presenting profiles of other customers who have similar browsing and purchasing behavior to Willard. These other customers are shown by customer name 630. For each customer shown, there is a score shown at 640 which is the measure of how close the behavior of that particular customer is to Willard's behavior. At 650 and 660 the market basket and channel is shown for behavior that may be characterized as sports enthusiast or new father. At 670 the segment of customer profiles is named "sports-oriented new fathers", **see col.6 lines 11-45**). Thus the market segmentation as taught by Walter is akin to the applicant's claimed limitation of categorization of products and services from the aggregate transaction data into a plurality of standard pricing groups.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJO O. OYEBISI whose telephone number is (571)272-8298. The examiner can normally be reached on 8:30A.M-5:30P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571)272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OJO O OYEBISI/

Primary Examiner, Art Unit 3696